

RECEIVED
CENTRAL FAX CENTER

**facsimile
TRANSMITTAL**

APR 08 2005

to: Examiner Lakia J. Tongue, Art Unit 1645
fax #: 571-273-8300
re: 10/644,927
date: April 8, 2005
pages: 6, including this cover sheet.

Attached is a Response to Office Communication and a Corrected Election with Traverse. Entry of said attachments is respectfully requested.

RESPONSE TO OFFICE COMMUNICATION
 CORRECTED ELECTION WITH TRAVERSE
 Certificate of Facsimile

CERTIFICATE OF FILING VIA FACSIMILE

The undersigned hereby certifies that the attached **RESPONSE TO OFFICE COMMUNICATION AND CORRECTED ELECTION WITH TRAVERSE**, was this day, April 8, 2005, filed in the United States Patent and Trademark Office via facsimile to facsimile number 571-273-8300. Total Pages:6


Gail E. Poulos

From the desk of...
Gail E. Poulos
Patent Advisor
USDA-ARS-OTT
Room 407, Bldg. 005, BARC-W
Beltsville, Maryland 20705

301-504-5302
Fax: 301-504-5060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

In re the Application of Stern et al.
Docket No. 0135.03

APR 08 2005

Serial No. 10/644,927

Art Unit: 1645

Examiner: Lakia J.

Tongue
Filed: August 21, 2003

For: Bacteriocins and Novel Bacterial Strains

RESPONSE TO OFFICE COMMUNICATION

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the OFFICE COMMUNICATION dated April 01, 2005, Applicants have identified the deposited strain that corresponds to the SEQ ID NO 1. The Office states that the reply filed on 03/15/05 is not fully responsive to the prior Office action because applicant has not made it clear which NRRL number corresponds to SEQ ID NO One. THE NRRL number corresponding with SEQ ID NO 1 is **NRRL B-30514**.

Basis for this can be found in the specification at **Paragraph No [0079]** of the above identified application.

ATTACHED is a corrected ELECTION WITH TRAVERSE which identifies NRRL B-30514 as corresponding to SEQ ID NO 1.

In the event this paper is deemed not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for such extension may be charged to Deposit Account 50-2134, along with any additional fees which may be required with respect to this paper.

Respectfully Submitted,

April 8, 2005

DATE

Gail E. Poulos

Gail E. Poulos, Patent Advisor

Registration No. 36,327

USDA-ARS-OTT

5601 Sunnyside Avenue, Rm. 4-1184

Beltsville, Maryland 20705-5131

Telephone: (301)504-5302

cc:

J. Fado

N. Stern

CERTIFICATE OF FILING VIA FACSIMILE

The undersigned hereby certifies that the attached **RESPONSE TO AN OFFICE COMMUNICATION** and **CORRECTED ELECTION WITH TRAVERSE**, was this day, April 8, 2005, 2005 filed in the United States Patent and Trademark Office via facsimile to facsimile number 571-273-8300 Total Pages: 6

Gail E. Poulos

Gail E. Poulos

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTERIn re the Application of Stern et al.
Docket No. 0135.03

APR 08 2005

Art Unit: 1645

Serial No. 10/644,927

Examiner: Lakia J. Tongue

Filed: August 21, 2003

For: Bacteriocins and Novel Bacterial Strains

ELECTION WITH TRAVERSEAssistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the requirement for restriction under 35 § USC 121, dated March 04, 2005, Applicants hereby elect with traverse the invention of group I, claims 1-11 drawn to an isolated bacteriocin produced by a lactic acid producing bacteria, classified in class 424, subclass 190.1.

Applicants further elect with traverse the following SEQ ID NO as required by the instant restriction requirement:

SEQ ID NO 1

The claims readable on SEQ ID NO 1 include 1,2,6,8, 12-15, 22-25, 28-30, and 34-24 and 25.

As required by the Office in a Thirty Day Notice, paper no. 20050322 with a mail date of April 1, 2005, the NRRL Accession number corresponding to SEQ ID NO 1 is:
NRRL B-30514.

Basis for this can be found in the specification at **Paragraph No [0079]** of the above identified application.

TRAVERSE

It is respectfully pointed out that, according to MPEP 803, in order for a restriction requirement to be proper, two criteria must be met:

- (1) the inventions must be independent or distinct as claimed, and
- (2) there must be a serious burden on the examiner if restriction is not required.

In the instant application, it is believed that a search for the bacteriocin would simultaneously encompass a search for the bacterial strain that produces it, the therapeutic feed including the bacteriocin, and the method of reducing the level of colonization of target bacteria in an animal since that is what a bacteriocin does. Therefore, there would be no serious burden on the Examiner to search for the bacteriocin, the bacterial strain that produces it, a therapeutic feed, and a method for reducing levels of colonization of target bacteria in an animal since a search for one would be expected to be found in the same reference as that disclosing a bacterial strain producing the bacteriocin, a therapeutic feed and a method for reducing a target bacteria in an animal. The serious burden is on Applicant who will be required to pay multiple fees for multiple applications.

For these reasons, it is respectfully requested that the Examiner reconsider the restriction requirement and examine the inventions comprising groups 1-III, for the elected SEQ ID NO. 1 with corresponding deposit NRRL B-30514.

In the event this paper is deemed not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for such extension may be charged to Deposit Account 50-2134, along with any additional fees which may be required with respect to this paper.

Respectfully Submitted,

April 8, 2005
DATE


Gail E. Poulos, Patent Advisor
Registration No. 36,327
USDA-ARS-OTT
5601 Sunnyside Avenue, Rm. 4-1184
Beltsville, Maryland 20705-5131
Telephone: (301)504-5302

cc:
J. Fado
N. Stern

CERTIFICATE OF FILING VIA FACSIMILE

The undersigned hereby certifies that the attached **RESPONSE TO AN OFFICE COMMUNICATION** and **CORRECTED ELECTION WITH TRAVERSE**, was this day, April 8, 2005, filed in the United States Patent and Trademark Office via facsimile to facsimile number 571-273-8300 Total Pages: 6


Gail E. Poulos